

July 29, 2002

Docket Management System
U.S. Department of Transportation
Room Plaza 401
400 7th St., SW
Washington, DC 20590

**RE: DOCKET FAA-2002-11301, ANTI-DRUG AND ALCOHOL MISUSE PREVENTION
PROGRAMS FOR PERSONNEL ENGAGED IN SPECIFIED AVIATION ACTIVITIES**

Dear Sir or Madam:

The National Air Transportation Association (NATA), the voice of aviation business, is the public policy group representing the interests of aviation businesses before Congress, federal agencies and state governments. NATA's 2,000 member companies own, operate and service aircraft. These companies provide for the needs of the traveling public by offering services and products to aircraft operators and others such as fuel sales, aircraft maintenance, parts sales, storage, rental, airline servicing, flight training, on-demand air charter services, and scheduled commuter operations in smaller aircraft. NATA members are a vital link in the aviation industry that provides services to the general public, airlines, general aviation, and the military.

NATA's membership includes many companies holding certificates issued under FAR Parts 135 and 145 plus numerous other companies, mostly small businesses, performing non-certificated maintenance. Still others in NATA's membership offer sightseeing flights that will be impacted by this rulemaking activity. NATA has joined with the Aeronautical Repair Station Association (ARSA) and other organizations to submit comprehensive comments addressing specific problems presented by the FAA's expansion of drug and alcohol testing requirements to employees at all tiers of a contract. NATA fully supports these comments, submitted by ARSA, and will not restate those points in this submission for brevity's sake. However, because other provisions of this rulemaking impact NATA members, we respectfully submit the following additional comments.

PRE-EMPLOYMENT TEST VALIDITY PERIOD

The FAA proposes to permit 60 days to elapse between a pre-employment drug test for a potential safety-sensitive employee and that person being added to the drug-testing program. NATA appreciates the FAA's action to remove any ambiguity in this area and ensure uniform application of standards. Therefore, NATA supports the addition of this language within Appendix I.

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REASONABLE CAUSE/SUSPICION TESTING

NATA supports the proposed clarification regarding an employer's ability to make reasonable-cause determinations for on-site contract employees. While NATA does not believe such situations are a frequent occurrence, it is important for employers to be fully aware of their rights to test any on-site safety sensitive personnel, whether a direct or contract employee, should the reasonable-cause tests justify such a test. The on-site supervisor directly observes the behavior of the employee and is in the best position to determine if a reasonable-cause test is necessary.

FAA PROGRAM APPROVAL ELIMINATED

NATA agrees with the FAA that there will be a reduction in the paperwork burden for certificate holders if programs no longer require FAA approval and issuance of plan numbers. However, NATA objects to the FAA placing on the certificate holders the burden of obtaining the new Operations Specification (OpSpec). This is a change mandated by the FAA and requires action and data input by FAA inspectors. Therefore, the inspectors should initiate contact with certificate holders under their supervision as they routinely do when new or changed OpSpecs are issued.

As the FAA deploys the final version of the OpSpec, communication with inspectors indicating their need to issue the new OpSpec to certificate holders must occur. NATA requests that language within the proposed rulemaking indicating that certificate holders bear responsibility for obtaining the OpSpec be revised to clarify that existing operators will be issued the OpSpec by their primary inspector.

With regard to sightseeing operations required to have a testing under FAR 135.1 (c), NATA supports FAA's efforts to clearly explain and simplify their obligations under Appendices I and J. NATA further suggests the FAA develop a template certification statement for these operators which would be readily available both on the FAA's Web site and in published documents, such as Advisory Circulars and Handbook Bulletins.

Finally, the FAA requested comment on two proposed formats for explaining the new OpSpec/Certification section. NATA believes that Option 1, which displays information in a table format, will better aid regulated parties in understanding the requirements of the regulation and is our preferred option. NATA expects that, after a certain implementation period, the FAA will remove the portion of the regulation explaining how existing operators should comply as this is only necessary as a transitional item.

NATA appreciates this opportunity to submit our views to the FAA for consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Burnside", with a stylized flourish at the end.

Joseph E. (Jeb) Burnside
Vice President